S.B.CR MISC. BAIL APPLICATION NO.4912/2006

Date : 10.11.2006

HON'BLE MR. SATYA PRAKASH PATHAK,J.

Mr. R.K. Charan for the applicant.
Mr. V.R. Mehta, Public Prosecutor for State.

I have heard learned counsel for the applicant as well as the learned Public Prosecutor for the State and carefully gone through the impugned order.

The contention of learned counsel for the applicant is that in view of the fact stated in the complaint that litigation between the accused applicant and the husband of the prosecutrix is pending, therefore, possibility cannot be ruled out that the applicant has been falsely involved in this case. He submits that now-a-days such type of cases are increasing wherein false allegations of rape are complained, therefore, he submits that the matter of the applicant requires to be taken into consideration for grant of bail.

On the other hand, learned Public Prosecutor has opposed the bail application.

I have considered the submissions made before me and perused the complaint. It appears that the accused applicant entered into house of the complainant in the night where the prosecutrix and her two minor daughters were sleeping and it is alleged that at that time under the fear of knife rape was committed.

Without expressing any opinion on the merit of the case while taking into consideration the overall facts and circumstances of the present case, I do not feel inclined to extend benefit of bail to the applicant. Accordingly, the bail application moved by the applicant under Section 439 Cr.P.C. stands rejected. However, the applicant shall be at liberty to move regular bail application before the learned trial court after recording of statement of the prosecutrix. The learned trial court shall at first stance record the statement of prosecutrix and after recording of the statement of the

prosecutrix, if any bail application is moved by the applicant, then, the learned trial court shall consider the same in accordance with law. sed.

(SATYA PRAKASH PATHAK), J.

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